

AMENDED IN ASSEMBLY MARCH 17, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 78**

**Introduced by Assembly Member Granlund**

December 18, 1996

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An act to amend Sections 12020, 12021, 12026.2, 12201, and 12322 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 78, as amended, Granlund. Firearms: transporting exemption.

(1) Existing law provides exemptions from the prohibition against the manufacture, import, sale, giving, lending, or possession of specified weapons and firearms. Existing law also provides exemptions for the possession of handgun ammunition.

This bill would add to these exemptions ~~the~~ *all of the following*:

(a) *The* circumstance where any of these weapons, firearms other than a short-barreled rifle or short-barreled shotgun, or ammunition is found and possessed by a person who is not in a specified prohibited class and is transporting the weapon, firearm, or device to a law enforcement agency for disposition according to law.

(b) *The possession of any weapon, device, or ammunition by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.*

(c) *A knife that is carried in a backpack, tool belt, tackle box, briefcase, purse, or similar container that is used to carry or transport possessions.*

(2) *Under existing law, one of the weapons subject to the prohibition described in (1) above is a dirk or dagger that is carried concealed upon the person. For purposes of this prohibition, a dirk or dagger is defined as a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.*

*This bill would specify that a nonlocking folding knife, a folding knife that is not a switchblade knife having a blade 2 or more inches in length, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.*

(3) *Under existing law, any person who is subject to the prohibition on owning, possessing, or having a firearm under his or her custody or control because of specified misdemeanor convictions prior to January 1, 1991, may petition the court only once for relief from the prohibition.*

*This bill would instead permit any person who is subject to the prohibition because of a conviction of an offense prior to the offense being added to the specified offenses that are subject to the prohibition, to petition the court only once for relief from the prohibition.*

*Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.*

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12020 of the Penal Code is  
2 amended to read:  
3 12020. (a) Any person in this state who manufactures  
4 or causes to be manufactured, imports into the state,  
5 keeps for sale, or offers or exposes for sale, or who gives,  
6 lends, or possesses any cane gun or wallet gun, any  
7 undetectable firearm, any firearm which is not  
8 immediately recognizable as a firearm, any camouflaging  
9 firearm container, any ammunition which contains or

1 consists of any fl  chette dart, any bullet containing or  
2 carrying an explosive agent, any ballistic knife, any  
3 multiburst trigger activator, any nunchaku, any  
4 short-barreled shotgun, any short-barreled rifle, any  
5 metal knuckles, any belt buckle knife, any leaded cane,  
6 any zip gun, any shuriken, any unconventional pistol, any  
7 lipstick case knife, any cane sword, any shobi-zue, any air  
8 gauge knife, any writing pen knife, or any instrument or  
9 weapon of the kind commonly known as a blackjack,  
10 slungshot, billy, sandclub, sap, or sandbag, or who carries  
11 concealed upon his or her person any explosive substance,  
12 other than fixed ammunition, or who carries concealed  
13 upon his or her person any dirk or dagger is punishable  
14 by imprisonment in a county jail not exceeding one year  
15 or in the state prison. A bullet containing or carrying an  
16 explosive agent is not a destructive device as that term is  
17 used in Section 12301.

18 (b) Subdivision (a) does not apply to any of the  
19 following:

20 (1) The sale to, purchase by, or possession of  
21 short-barreled shotguns or short-barreled rifles by police  
22 departments, sheriffs' offices, marshals' offices, the  
23 California Highway Patrol, the Department of Justice, or  
24 the military or naval forces of this state or of the United  
25 States for use in the discharge of their official duties or the  
26 possession of short-barreled shotguns and short-barreled  
27 rifles by regular, salaried, full-time members of a police  
28 department, sheriff's office, marshal's office, the  
29 California Highway Patrol, or the Department of Justice  
30 when on duty and the use is authorized by the agency and  
31 is within the course and scope of their duties.

32 (2) The manufacture, possession, transportation or  
33 sale of short-barreled shotguns or short-barreled rifles  
34 when authorized by the Department of Justice pursuant  
35 to Article 6 (commencing with Section 12095) of this  
36 chapter and not in violation of federal law.

37 (3) The possession of a nunchaku on the premises of a  
38 school which holds a regulatory or business license and  
39 teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, “antique firearm” means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the

1 regulations issued pursuant thereto. Any person  
2 prohibited by Section 12021, 12021.1, or 12101 of this code  
3 or Section 8100 or 8103 of the Welfare and Institutions  
4 Code from possessing these weapons who obtains title to  
5 these weapons by bequest or intestate succession may  
6 retain title for not more than one year, but actual  
7 possession of these weapons at any time is punishable  
8 pursuant to Section 12021, 12021.1, or 12101 of this code or  
9 Section 8100 or 8103 of the Welfare and Institutions Code.  
10 Within the year, the person shall transfer title to the  
11 weapons by sale, gift, or other disposition. Any person  
12 who violates this paragraph is in violation of subdivision  
13 (a). The exemption provided in this subdivision does not  
14 apply to pen guns.

15 (9) Instruments or devices that are possessed by  
16 federal, state, and local historical societies, museums, and  
17 institutional collections which are open to the public,  
18 provided that these instruments or devices are properly  
19 housed, secured from unauthorized handling, and, if the  
20 instrument or device is a firearm, unloaded.

21 (10) Instruments or devices, other than short-barreled  
22 shotguns or short-barreled rifles, that are possessed or  
23 utilized during the course of a motion picture, television,  
24 or video production or entertainment event by an  
25 authorized participant therein in the course of making  
26 that production or event or by an authorized employee  
27 or agent of the entity producing that production or event.

28 (11) Instruments or devices, other than short-barreled  
29 shotguns or short-barreled rifles, that are sold by,  
30 manufactured by, exposed or kept for sale by, possessed  
31 by, imported by, or lent by persons who are in the  
32 business of selling instruments or devices listed in  
33 subdivision (a) solely to the entities referred in  
34 paragraphs (9) and (10) when engaging in transactions  
35 with those entities.

36 (12) The sale to, possession of, or purchase of any  
37 weapon, device, or ammunition, other than a  
38 short-barreled rifle or short-barreled shotgun, by any  
39 federal, state, county, city and county, or city agency that  
40 is charged with the enforcement of any law for use in the

1 discharge of their official duties, or the possession of any  
2 weapon, device, or ammunition, other than a  
3 short-barreled rifle or short-barreled shotgun, by peace  
4 officers thereof when on duty and the use is authorized  
5 by the agency and is within the course and scope of their  
6 duties.

7 (13) Weapons, devices, and ammunition, other than a  
8 short-barreled rifle or short-barreled shotgun, that are  
9 sold by, manufactured by, exposed, or kept for sale by,  
10 possessed by, imported by, or lent by, persons who are in  
11 the business of selling weapons, devices, and ammunition  
12 listed in subdivision (a) solely to the entities referred to  
13 in paragraph (12) when engaging in transactions with  
14 those entities.

15 (14) The manufacture for, sale to, exposing or keeping  
16 for sale to, importation of, or lending of wooden clubs or  
17 batons to special police officers or uniformed security  
18 guards authorized to carry any wooden club or baton  
19 pursuant to Section 12002 by entities that are in the  
20 business of selling wooden batons or clubs to special police  
21 officers and uniformed security guards when engaging in  
22 transactions with those persons.

23 (15) Any instrument, ammunition, weapon, or device  
24 listed in subdivision (a), other than a short-barreled rifle  
25 or short-barreled shotgun, that is found and possessed by  
26 a person who is not prohibited from possessing firearms  
27 or ammunition pursuant to Section 12021, 12021.1, or  
28 paragraph (1) of subdivision (b) of Section 12316 of this  
29 code or Section 8100 or 8103 of the Welfare and  
30 Institutions Code and is transporting the listed item to a  
31 law enforcement agency for disposition according to law.

32 *(16) The possession of any weapon, device, or*  
33 *ammunition, by a forensic laboratory or any authorized*  
34 *agent or employee thereof in the course and scope of his*  
35 *or her authorized activities.*

36 *(17) A knife that is carried in a backpack, tool belt,*  
37 *tackle box, briefcase, purse, or similar container that is*  
38 *used to carry or transport possessions.*

39 (c) (1) As used in this section, a “short-barreled  
40 shotgun” means any of the following:



1 (A) A firearm which is designed or redesigned to fire  
2 a fixed shotgun shell and having a barrel or barrels of less  
3 than 18 inches in length.

4 (B) A firearm which has an overall length of less than  
5 26 inches and which is designed or redesigned to fire a  
6 fixed shotgun shell.

7 (C) Any weapon made from a shotgun (whether by  
8 alteration, modification, or otherwise) if that weapon, as  
9 modified, has an overall length of less than 26 inches or a  
10 barrel or barrels of less than 18 inches in length.

11 (D) Any device which may be readily restored to fire  
12 a fixed shotgun shell which, when so restored, is a device  
13 defined in subparagraphs (A) to (C), inclusive.

14 (E) Any part, or combination of parts, designed and  
15 intended to convert a device into a device defined in  
16 subparagraphs (A) to (C), inclusive, or any combination  
17 of parts from which a device defined in subparagraphs  
18 (A) to (C), inclusive, can be readily assembled if those  
19 parts are in the possession or under the control of the  
20 same person.

21 (2) As used in this section, a “short-barreled rifle”  
22 means any of the following:

23 (A) A rifle having a barrel or barrels of less than 16  
24 inches in length.

25 (B) A rifle with an overall length of less than 26 inches.

26 (C) Any weapon made from a rifle (whether by  
27 alteration, modification, or otherwise) if that weapon as  
28 modified has an overall length of less than 26 inches or a  
29 barrel or barrels of less than 16 inches in length.

30 (D) Any device which may be readily restored to fire  
31 a fixed cartridge which, when so restored, is a device  
32 defined in subparagraphs (A) to (C), inclusive.

33 (E) Any part, or combination of parts, designed and  
34 intended to convert a device into a device defined in  
35 subparagraphs (A) to (C), inclusive, or any combination  
36 of parts from which a device defined in subparagraphs  
37 (A) to (C), inclusive, may be readily assembled if those  
38 parts are in the possession or under the control of the  
39 same person.

1 (3) As used in this section, a “nunchaku” means an  
2 instrument consisting of two or more sticks, clubs, bars or  
3 rods to be used as handles, connected by a rope, cord,  
4 wire, or chain, in the design of a weapon used in  
5 connection with the practice of a system of self-defense  
6 such as karate.

7 (4) As used in this section, a “wallet gun” means any  
8 firearm mounted or enclosed in a case, resembling a  
9 wallet, designed to be or capable of being carried in a  
10 pocket or purse, if ~~such~~ *the* firearm may be fired while  
11 mounted or enclosed in ~~such~~ *the* case.

12 (5) As used in this section, a “cane gun” means any  
13 firearm mounted or enclosed in a stick, staff, rod, crutch,  
14 or similar device, designed to be, or capable of being used  
15 as, an aid in walking, if ~~such~~ *the* firearm may be fired  
16 while mounted or enclosed therein.

17 (6) As used in this section, a “fléchette dart” means a  
18 dart, capable of being fired from a firearm, which  
19 measures approximately one inch in length, with tail fins  
20 which take up five-sixteenths of an inch of the body.

21 (7) As used in this section, “metal knuckles” means  
22 any device or instrument made wholly or partially of  
23 metal which is worn for purposes of offense or defense in  
24 or on the hand and which either protects the wearer’s  
25 hand while striking a blow or increases the force of impact  
26 from the blow or injury to the individual receiving the  
27 blow. The metal contained in the device may help  
28 support the hand or fist, provide a shield to protect it, or  
29 consist of projections or studs which would contact the  
30 individual receiving a blow.

31 (8) As used in this section, a “ballistic knife” means a  
32 device that propels a knifelike blade as a projectile by  
33 means of a coil spring, elastic material, or compressed gas.  
34 Ballistic knife does not include any device which propels  
35 an arrow or a bolt by means of any common bow,  
36 compound bow, crossbow, or underwater spear gun.

37 (9) As used in this section, a “camouflaging firearm  
38 container” means a container which meets all of the  
39 following criteria:

40 (A) It is designed and intended to enclose a firearm.





(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2<sup>1</sup>/<sub>2</sub> inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth

1 bore either a number of projectiles (ball shot) or a single  
2 projectile for each pull of the trigger.

3 (22) As used in this section, an “undetectable firearm”  
4 means any weapon which meets one of the following  
5 requirements:

6 (A) When, after removal of grips, stocks, and  
7 magazines, it is not as detectable as the Security  
8 Exemplar, by walk-through metal detectors calibrated  
9 and operated to detect the Security Exemplar.

10 (B) When any major component of which, when  
11 subjected to inspection by the types of X-ray machines  
12 commonly used at airports, does not generate an image  
13 that accurately depicts the shape of the component.  
14 Barium sulfate or other compounds may be used in the  
15 fabrication of the component.

16 (C) For purposes of this paragraph, the terms  
17 “firearm,” “major component,” and “Security Exemplar”  
18 have the same meanings as those terms are defined in  
19 Section 922 of Title 18 of the United States Code.

20 All firearm detection equipment newly installed in  
21 nonfederal public buildings in this state shall be of a type  
22 identified by either the United States Attorney General,  
23 the Secretary of Transportation, or the Secretary of the  
24 Treasury, as appropriate, as available state-of-the-art  
25 equipment capable of detecting an undetectable firearm,  
26 as defined, while distinguishing innocuous metal objects  
27 likely to be carried on one’s person sufficient for  
28 reasonable passage of the public.

29 (23) As used in this section, a “multiburst trigger  
30 activator” means one of the following devices:

31 (A) A device designed or redesigned to be attached to  
32 a semiautomatic firearm which allows the firearm to  
33 discharge two or more shots in a burst by activating the  
34 device.

35 (B) A manual or power-driven trigger activating  
36 device constructed and designed so that when attached  
37 to a semiautomatic firearm it increases the rate of fire of  
38 that firearm.

39 (24) As used in this section, a “dirk” or “dagger” means  
40 a knife or other instrument with or without a handguard

1 that is capable of ready use as a stabbing weapon that may  
2 ~~inflict great bodily injury or death. A folding knife is~~  
3 ~~capable of ready use as a stabbing weapon that may inflict~~  
4 ~~great bodily injury or death only if the blade of the knife~~  
5 ~~is exposed and locked into position. inflict great bodily~~  
6 ~~injury or death. A nonlocking folding knife, a folding knife~~  
7 ~~that is not prohibited by Section 653k, or a pocketknife is~~  
8 ~~capable of ready use as a stabbing weapon that may inflict~~  
9 ~~great bodily injury or death only if the blade of the knife~~  
10 ~~is exposed and locked into position.~~

11 (d) Knives carried in sheaths which are worn openly  
12 suspended from the waist of the wearer are not concealed  
13 within the meaning of this section.

14 SEC. 2. Section 12021 of the Penal Code is amended  
15 to read:

16 12021. (a) (1) Any person who has been convicted  
17 of a felony under the laws of the United States, of the State  
18 of California, or any other state, government, or country,  
19 or of an offense enumerated in subdivision (a), (b), or (d)  
20 of Section 12001.6, or who is addicted to the use of any  
21 narcotic drug, who owns or has in his or her possession or  
22 under his or her custody or control any firearm is guilty  
23 of a felony.

24 (2) Any person who has two or more convictions for  
25 violating paragraph (2) of subdivision (a) of Section 417  
26 and who owns or has in his or her possession or under his  
27 or her custody or control any firearm is guilty of a felony.

28 (b) Notwithstanding subdivision (a), any person who  
29 has been convicted of a felony or of an offense  
30 enumerated in Section 12001.6, when that conviction  
31 results from certification by the juvenile court for  
32 prosecution as an adult in an adult court under Section  
33 707 of the Welfare and Institutions Code, who owns or has  
34 in his or her possession or under his or her custody or  
35 control any firearm is guilty of a felony.

36 (c) (1) Except as provided in subdivision (a) or  
37 paragraph (2) of this subdivision, any person who has  
38 been convicted of a misdemeanor violation of Section 71,  
39 76, 136.5, or 140, subdivision (d) of Section 148, Section  
40 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5,

1 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9,  
2 646.9, 12023, or 12024, subdivision (b) or (d) of Section  
3 12034, Section 12040, subdivision (b) of Section 12072,  
4 subdivision (a) of former Section 12100, Section 12220,  
5 12320, or 12590, or Section 8100, 8101, or 8103 of the  
6 Welfare and Institutions Code, any firearm-related  
7 offense pursuant to Sections 871.5 and 1001.5 of the  
8 Welfare and Institutions Code, or of the conduct  
9 punished in paragraph (3) of subdivision (g) of Section  
10 12072, and who, within 10 years of the conviction, owns,  
11 or has in his or her possession or under his or her custody  
12 or control, any firearm is guilty of a public offense, which  
13 shall be punishable by imprisonment in a county jail not  
14 exceeding one year or in the state prison, by a fine not  
15 exceeding one thousand dollars (\$1,000), or by both that  
16 imprisonment and fine. The court, on forms prescribed  
17 by the Department of Justice, shall notify the department  
18 of persons subject to this subdivision. However, the  
19 prohibition in this paragraph may be reduced,  
20 eliminated, or conditioned as provided in paragraph (2)  
21 or (3).

22 (2) Any person employed as a peace officer described  
23 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5  
24 whose employment or livelihood is dependent on the  
25 ability to legally possess a firearm, who is subject to the  
26 prohibition imposed by this subdivision because of a  
27 conviction under Section 273.5, 273.6, or 646.9, may  
28 petition the court only once for relief from this  
29 prohibition. The petition shall be filed with the court in  
30 which the petitioner was sentenced. If possible, the  
31 matter shall be heard before the same judge that  
32 sentenced the petitioner. Upon filing the petition, the  
33 clerk of the court shall set the hearing date and shall  
34 notify the petitioner and the prosecuting attorney of the  
35 date of the hearing. Upon making each of the following  
36 findings, the court may reduce or eliminate the  
37 prohibition, impose conditions on reduction or  
38 elimination of the prohibition, or otherwise grant relief  
39 from the prohibition as the court deems appropriate:

1 (A) Finds by a preponderance of the evidence that the  
2 petitioner is likely to use a firearm in a safe and lawful  
3 manner.

4 (B) Finds that the petitioner is not within a prohibited  
5 class as specified in subdivision (a), (b), (d), (e), or (g)  
6 or Section 12021.1, and the court is not presented with any  
7 credible evidence that the petitioner is a person  
8 described in Section 8100 or 8103 of the Welfare and  
9 Institutions Code.

10 (C) Finds that the petitioner does not have a previous  
11 conviction under this subdivision no matter when the  
12 prior conviction occurred.

13 In making its decision, the court shall consider the  
14 petitioner's continued employment, the interest of  
15 justice, any relevant evidence, and the totality of the  
16 circumstances. The court shall require, as a condition of  
17 granting relief from the prohibition under this section,  
18 that the petitioner agree to participate in counseling as  
19 deemed appropriate by the court. Relief from the  
20 prohibition shall not relieve any other person or entity  
21 from any liability that might otherwise be imposed. It is  
22 the intent of the Legislature that courts exercise broad  
23 discretion in fashioning appropriate relief under this  
24 paragraph in cases in which relief is warranted. However,  
25 nothing in this paragraph shall be construed to require  
26 courts to grant relief to any particular petitioner. It is the  
27 intent of the Legislature to permit persons who were  
28 convicted of an offense specified in Section 273.5, 273.6,  
29 or 646.9 to seek relief from the prohibition imposed by this  
30 subdivision.

31 (3) Any person who is subject to the prohibition  
32 imposed by this subdivision because of a conviction of an  
33 offense prior to that offense being added to paragraph  
34 (1), may petition the court only once for relief from this  
35 prohibition. The petition shall be filed with the court in  
36 which the petitioner was sentenced. If possible, the  
37 matter shall be heard before the same judge that  
38 sentenced the petitioner. Upon filing the petition, the  
39 clerk of the court shall set the hearing date and notify the  
40 petitioner and the prosecuting attorney of the date of the

1 hearing. Upon making each of the following findings, the  
2 court may reduce or eliminate the prohibition, impose  
3 conditions on reduction or elimination of the prohibition,  
4 or otherwise grant relief from the prohibition as the court  
5 deems appropriate:

6 (A) Finds by a preponderance of the evidence that the  
7 petitioner is likely to use a firearm in a safe and lawful  
8 manner.

9 (B) Finds that the petitioner is not within a prohibited  
10 class as specified in subdivision (a), (b), (d), (e), or (g)  
11 or Section 12021.1, and the court is not presented with any  
12 credible evidence that the petitioner is a person  
13 described in Section 8100 or 8103 of the Welfare and  
14 Institutions Code.

15 (C) Finds that the petitioner does not have a previous  
16 conviction under this subdivision, no matter when the  
17 prior conviction occurred.

18 In making its decision, the court may consider the  
19 interest of justice, any relevant evidence, and the totality  
20 of the circumstances. It is the intent of the Legislature  
21 that courts exercise broad discretion in fashioning  
22 appropriate relief under this paragraph in cases in which  
23 relief is warranted. However, nothing in this paragraph  
24 shall be construed to require courts to grant relief to any  
25 particular petitioner.

26 (4) Law enforcement officials who enforce the  
27 prohibition specified in this subdivision against a person  
28 who has been granted relief pursuant to paragraph (2) or  
29 (3), shall be immune from any liability for false arrest  
30 arising from the enforcement of this subdivision unless  
31 the person has in his or her possession a certified copy of  
32 the court order that granted the person relief from the  
33 prohibition. This immunity from liability shall not relieve  
34 any person or entity from any other liability that might  
35 otherwise be imposed.

36 (d) Any person who, as an express condition of  
37 probation, is prohibited or restricted from owning,  
38 possessing, controlling, receiving, or purchasing a firearm  
39 and who owns, or has in his or her possession or under his  
40 or her custody or control, any firearm but who is not

1 subject to subdivision (a) or (c) is guilty of a public  
2 offense, which shall be punishable by imprisonment in a  
3 county jail not exceeding one year or in the state prison,  
4 by a fine not exceeding one thousand dollars (\$1,000), or  
5 by both that imprisonment and fine. The court, on forms  
6 provided by the Department of Justice, shall notify the  
7 department of persons subject to this subdivision. The  
8 notice shall include a copy of the order of probation and  
9 a copy of any minute order or abstract reflecting the  
10 order and conditions of probation.

11 (e) Any person who (1) is alleged to have committed  
12 an offense listed in subdivision (b) of Section 707 of the  
13 Welfare and Institutions Code, an offense described in  
14 subdivision (b) of Section 1203.073, or any offense  
15 enumerated in paragraph (1) of subdivision (c), (2) is  
16 found to be a fit and proper subject to be dealt with under  
17 the juvenile court law, and (3) is subsequently adjudged  
18 a ward of the juvenile court within the meaning of Section  
19 602 of the Welfare and Institutions Code because the  
20 person committed an offense listed in subdivision (b) of  
21 Section 707 of the Welfare and Institutions Code, an  
22 offense described in subdivision (b) of Section 1203.073,  
23 or any offense enumerated in paragraph (1) of  
24 subdivision (c) shall not own, or have in his or her  
25 possession or under his or her custody or control, any  
26 firearm until the age of 30 years. A violation of this  
27 subdivision shall be punishable by imprisonment in a  
28 county jail not exceeding one year or in the state prison,  
29 by a fine not exceeding one thousand dollars (\$1,000), or  
30 by both that imprisonment and fine. The juvenile court,  
31 on forms prescribed by the Department of Justice, shall  
32 notify the department of persons subject to this  
33 subdivision. Notwithstanding any other law, the forms  
34 required to be submitted to the department pursuant to  
35 this subdivision may be used to determine eligibility to  
36 acquire a firearm.

37 (f) Subdivision (a) shall not apply to a person who has  
38 been convicted of a felony under the laws of the United  
39 States unless either of the following criteria is satisfied:



1 (1) Conviction of a like offense under California law  
2 can only result in imposition of felony punishment.

3 (2) The defendant was sentenced to a federal  
4 correctional facility for more than 30 days, or received a  
5 fine of more than one thousand dollars (\$1,000), or  
6 received both punishments.

7 (g) Every person who purchases or receives, or  
8 attempts to purchase or receive, a firearm knowing that  
9 he or she is subject to a protective order as defined in  
10 Section 6218 of the Family Code, or a temporary  
11 restraining order or injunction issued pursuant to Section  
12 527.6 or 527.8 of the Code of Civil Procedure, is guilty of  
13 a public offense, which shall be punishable by  
14 imprisonment in a county jail not exceeding one year or  
15 in the state prison, by a fine not exceeding one thousand  
16 dollars (\$1,000), or by both that imprisonment and fine.  
17 This subdivision does not apply unless the copy of the  
18 restraining order personally served on the person against  
19 whom the restraining order is issued contains a notice in  
20 bold print stating (1) that the person is prohibited from  
21 purchasing or receiving or attempting to purchase or  
22 receive a firearm and (2) specifying the penalties for  
23 violating this subdivision, or a court has provided actual  
24 verbal notice of the firearm prohibition and penalty as  
25 provided in Section 6304 of the Family Code. However,  
26 this subdivision does not apply if the firearm is received  
27 as part of the disposition of community property pursuant  
28 to Division 7 (commencing with Section 2500) of the  
29 Family Code.

30 (h) (1) a violation of subdivision (a), (b), (c), (d), or  
31 (e) is justifiable where all of the following conditions are  
32 met:

33 (A) The person found the firearm or took the firearm  
34 from a person who was committing a crime against him  
35 or her.

36 (B) The person possessed the firearm no longer than  
37 was necessary to deliver or transport the firearm to a law  
38 enforcement agency for that agency's disposition  
39 according to law.

1 (C) If the firearm was transported to a law  
2 enforcement agency, it was transported in accordance  
3 with paragraph (18) of subdivision (a) of Section 12026.2.

4 (2) Upon the trial for violating subdivision (a), (b),  
5 (c), (d), or (e), the trier of fact shall determine whether  
6 the defendant was acting within the provisions of the  
7 exemption created by this subdivision.

8 (3) The defendant has the burden of proving by a  
9 preponderance of the evidence that he or she comes  
10 within the provisions of the exemption created by this  
11 subdivision.

12 SEC. 3. Section 12026.2 of the Penal Code is amended  
13 to read:

14 12026.2. (a) Section 12025 does not apply to, or affect,  
15 any of the following:

16 (1) The possession of a firearm by an authorized  
17 participant in a motion picture, television, or video  
18 production or entertainment event when the participant  
19 lawfully uses the firearm as part of that production or  
20 event or while going directly to, or coming directly from,  
21 that production or event.

22 (2) The possession of a firearm in a locked container by  
23 a member of any club or organization, organized for the  
24 purpose of lawfully collecting and lawfully displaying  
25 pistols, revolvers, or other firearms, while the member is  
26 at meetings of the clubs or organizations or while going  
27 directly to, and coming directly from, those meetings.

28 (3) The transportation of a firearm by a participant  
29 when going directly to, or coming directly from, a  
30 recognized safety or hunter safety class, or a recognized  
31 sporting event involving that firearm.

32 (4) The transportation of a firearm by a person listed  
33 in Section 12026 directly between any of the places  
34 mentioned in Section 12026.

35 (5) The transportation of a firearm by a person when  
36 going directly to, or coming directly from, a fixed place  
37 of business or private residential property for the purpose  
38 of the lawful repair or the lawful transfer, sale, or loan of  
39 that firearm.

1 (6) The transportation of a firearm by a person listed  
2 in Section 12026 when going directly from the place  
3 where that person lawfully received that firearm to that  
4 person's place of residence or place of business or to  
5 private property owned or lawfully possessed by that  
6 person.

7 (7) The transportation of a firearm by a person when  
8 going directly to, or coming directly from, a gun show,  
9 swap meet, or similar event to which the public is invited,  
10 for the purpose of displaying that firearm in a lawful  
11 manner.

12 (8) The transportation of a firearm by an authorized  
13 employee or agent of a supplier of firearms when going  
14 directly to, or coming directly from, a motion picture,  
15 television, or video production or entertainment event  
16 for the purpose of providing that firearm to an authorized  
17 participant to lawfully use as a part of that production or  
18 event.

19 (9) The transportation of a firearm by a person when  
20 going directly to, or coming directly from, a target range,  
21 which holds a regulatory or business license, for the  
22 purposes of practicing shooting at targets with that  
23 firearm at that target range.

24 (10) The transportation of a firearm by a person when  
25 going directly to, or coming directly from, a place  
26 designated by a person authorized to issue licenses  
27 pursuant to Section 12050 when done at the request of the  
28 issuing agency so that the issuing agency can determine  
29 whether or not a license should be issued to that person  
30 to carry that firearm.

31 (11) The transportation of a firearm by a person when  
32 going directly to, or coming directly from, a law  
33 enforcement agency for the purpose of a lawful transfer,  
34 sale, or loan of that firearm pursuant to Section 12084.

35 (12) The transportation of a firearm by a person when  
36 going directly to, or coming directly from, a lawful  
37 camping activity for the purpose of having that firearm  
38 available for lawful personal protection while at the  
39 lawful campsite. This paragraph shall not be construed to  
40 override the statutory authority granted to the

1 Department of Parks and Recreation or any other state  
2 or local governmental agencies to promulgate rules and  
3 regulations governing the administration of parks and  
4 campgrounds.

5 (13) The transportation of a firearm by a person in  
6 order to comply with subdivision (c) or (i) of Section  
7 12078 as it pertains to that firearm.

8 (14) The transportation of a firearm by a person in  
9 order to utilize subdivision (l) of Section 12078 as it  
10 pertains to that firearm.

11 (15) The transportation of a firearm by a person when  
12 going directly to, or coming directly from, a gun show or  
13 event, as defined in Section 178.100 of Title 27 of the Code  
14 of Federal Regulations, for the purpose of lawfully  
15 transferring, selling, or loaning that firearm in  
16 accordance with subdivision (d) of Section 12072.

17 (16) The transportation of a firearm by a person in  
18 order to utilize paragraph (3) of subdivision (a) of  
19 Section 12078 as it pertains to that firearm.

20 (17) The transportation of a firearm by a person who  
21 finds the firearm in order to comply with Article 1  
22 (commencing with Section 2080) of Chapter 4 of Division  
23 3 of the Civil Code as it pertains to that firearm.

24 (18) The transportation of a firearm by a person who  
25 finds the firearm and is transporting it to a law  
26 enforcement agency for disposition according to law.

27 (b) In order for a firearm to be exempted under  
28 subdivision (a), while being transported to or from a  
29 place, the firearm shall be unloaded, kept in a locked  
30 container, as defined in subdivision (d), and the course of  
31 travel shall include only those deviations between  
32 authorized locations as are reasonably necessary under  
33 the circumstances.

34 (c) This section does not prohibit or limit the  
35 otherwise lawful carrying or transportation of any pistol,  
36 revolver, or other firearm capable of being concealed  
37 upon the person in accordance with this chapter.

38 (d) As used in this section, “locked container” means  
39 a secure container which is fully enclosed and locked by  
40 a padlock, key lock, combination lock, or similar locking

1 device. The term “locked container” does not include the  
2 utility or glove compartment of a motor vehicle.

3 SEC. 4. Section 12201 of the Penal Code is amended  
4 to read:

5 12201. Nothing in this chapter shall affect or apply to  
6 any of the following:

7 (a) The sale to, purchase by, or possession of  
8 machineguns by police departments, sheriffs’ offices,  
9 marshals’ offices, district attorneys’ offices, the California  
10 Highway Patrol, the Department of Justice, the  
11 Department of Corrections for use by the department’s  
12 Special Emergency Response Teams and Law  
13 Enforcement Liaison/Investigations Unit, or the military  
14 or naval forces of this state or of the United States for use  
15 in the discharge of their official duties.

16 (b) The possession of machineguns by regular,  
17 salaried, full-time peace officer members of a police  
18 department, sheriff’s office, marshal’s office, district  
19 attorney’s office, the California Highway Patrol, the  
20 Department of Justice, or the Department of Corrections  
21 for use by the department’s Special Emergency Response  
22 Teams and Law Enforcement Liaison/Investigations  
23 Unit when on duty and if the use is within the scope of  
24 their duties.

25 SEC. 5. Section 12322 of the Penal Code is amended  
26 to read:

27 12322. Nothing in this chapter shall apply to or affect  
28 either of the following:

29 (a) The sale to, purchase by, possession of, or use of any  
30 ammunition by any member of the Army, Navy, Air  
31 Force, or Marine Corps of the United States, or the  
32 National Guard, while on duty and acting within the  
33 scope and course of his or her employment, or any police  
34 agency or forensic laboratory or any person who is the  
35 holder of a valid permit issued pursuant to Section 12305.

36 (b) The possession of handgun ammunition designed  
37 primarily to penetrate metal or armor by a person who  
38 found the ammunition, if he or she is not prohibited from  
39 possessing firearms or ammunition pursuant to Section  
40 12021, 12021.1, or paragraph (1) of subdivision (b) of

1 Section 12316 of this code or Section 8100 or 8103 of the  
2 Welfare and Institutions Code and is transporting the  
3 ammunition to a law enforcement agency for disposition  
4 according to law.

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